

rights of crime victims, I ask that George Will's column from Sunday's Washington Post be printed in the RECORD in its entirety. He offers a well-reasoned analysis of the concerns the proposed amendment raises.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Post, April 23, 2000]

(By George F. Will)

TINKERING AGAIN

Congress's constitutional fidgets continue. For the fourth time in 29 days there will be a vote on a constitutional amendment. The House failed to constitutionalize fiscal policy with an amendment to require a balanced budget. The Senate failed to eviscerate the First Amendment by empowering Congress to set "reasonable limits" on the funding of political speech. The Senate failed to stop the epidemic of flag burning by an amendment empowering Congress to ban flag desecration. And this week the Senate will vote on an amendment to protect the rights of crime victims.

Because many conservatives consider the amendment a corrective for a justice system too tilted toward the rights of the accused, because liberals relish minting new rights and federalizing things, and because no one enjoys voting against victims, the vote is expected to be close. But the amendment is imprudent.

The amendment would give victims of violent crimes rights to "reasonable" notice of and access to public proceedings pertaining to the crime; to be heard at, or to submit a statement to, proceedings to determine conditional release from custody, plea bargaining, sentencing or hearings pertaining to parole, pardon or commutation of sentence; reasonable notice of, and consideration of victim safety regarding, a release or escape from custody relating to the crime; a trial free from unreasonable delay; restitution from convicted offenders.

Were this amendment added to the Constitution, America would need more—a lot more—appellate judges to handle avalanches of litigation, starting with the definition of "victim." For example, how many relatives or loved ones of a murder victim will have victims' rights? Then there are all the requirements of "reasonableness." The Supreme Court—never mind lower courts—has heard more than 100 cases since 1961 just about the meaning of the Fourth Amendment's prohibition of "unreasonable" searches.

What is the meaning of the right to "consideration" regarding release of a prisoner? And if victims acquire this amendment's panoply of participatory rights, what becomes of, for example, a victim who is also a witness testifying in the trial, and therefore, not entitled to unlimited attendance? What is the right of the victim to object to a plea bargain that a prosecutor might strike with a criminal in order to reach other criminals who are more dangerous to society but are of no interest to the victim?

Federalism considerations also argue against this amendment, and not only because it is an unfunded mandate of unknowable cost. States have general police powers. As the Supreme Court has recently reaffirmed, the federal government—never mind its promiscuous federalizing of crimes in recent decades—does not. Thus Roger Pilon, director of the Center for Constitutional Studies at the Cato Institute, says the Victims' Rights Amendment is discordant with "the very structure and purpose of the Constitution."

Pilon says the Framers' "guarded" approach to constitutionalism was to limit

government to certain ends and certain ways of pursuing them. Government, they thought, existed to secure natural rights—rights that do not derive from government. Thus the Bill of Rights consists of grand negatives, saying what government may not do. But the Victims' Rights Amendment has, Pilon says, the flavor of certain European constitutions that treat rights not as liberties government must respect but as entitlements government must provide.

There should be a powerful predisposition against unnecessary tinkering with the nation's constituting document, reverence for which is diminished by treating it as malleable. And all of the Victims' Rights Amendment's aims can be, and in many cases are being, more appropriately and expeditiously addressed by states, which can fine-tune their experiments with victims' rights more easily than can the federal government after it constitutionalizes those rights.

The fact that all 50 states have addressed victims' rights with constitutional amendments or statutes, or both, strengthens the suspicion that the proposed amendment is (as the Equal Rights Amendment would have been) an exercise in using—misusing, actually—the Constitution for the expressive purpose of affirming a sentiment or aspiration. The Constitution would be diminished by treating it as a bulletin board for admirable sentiments and a place to give special dignity to certain social policies. (Remember the jest that libraries used to file the French constitution under periodicals.)

The Constitution has been amended just 18 times (counting ratification of the first 10 amendments as a single act) in 211 years. The 19th time should not be for the Victims' Rights Amendment. It would be constitutional clutter, unnecessary and, because it would require constant judicial exegesis, a source of vast uncertainty in the administration of justice.

MORNING BUSINESS

Mr. THOMPSON. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

85TH ANNIVERSARY OF THE 1915 GENOCIDE OF THE ARMENIAN PEOPLE BY THE TURKISH GOVERNMENT

Mr. ABRAHAM. Mr. President, I rise today to commemorate the 85th anniversary of the 1915 Genocide of the Armenians by the Turkish Government. As so many of you are aware, between 1915 and 1923 more than one and a half million Armenians perished from atrocities committed against them. Yet the brave Armenian people persevered.

As the grandson of Lebanese immigrants, I am, of course, very familiar with the historic ties that have bound Armenians to the Lebanese. We have sheltered and strengthened one another in time of need. As peoples we have become close because the experience of being forced from one's home and homeland is not new to either of us.

Through mass deportations, starvation, disease, and outright massacres, Armenians have carried their heads

high, as they carried on their way of life or carried their culture to new lands. The strength and pride in Armenian heritage have kept alive the memory of those who perished in the genocide. I rise today to pay tribute to that strong, proud heritage.

As a constant symbol of the strength and perseverance through which oppressed peoples survive, the Armenian genocide must serve as a reminder that we must never forget the atrocities of the past, lest they be repeated.

The Senate Immigration Subcommittee, which I chair, recently held hearings on the status of Albanian refugees in Kosovo. I must say that I was impressed with the strength and faith of these people in the face of the great hardships visited on their people. And I was reminded of another people "cleansed" from its homeland by brutal invaders.

But too few Americans are in a position to make that comparison. In the 85 years since the massacre of Armenians began, another great crime has been committed—the crime of keeping the truth from the world.

This was a crime against all people, because it denied them the lessons to be learned from that tragic tale. But most of all it was a crime against all Armenians, alive and dead. For even the dead have at least one right—that of having their story told.

The 1.5 million Armenians who died deserve to have the truth of their suffering known. Only when we know the horror that they went through can we comprehend the gravity of the crime. Only then will the rights of the dead be fulfilled. This is why we must make sure younger generations understand what happened and ensure that it never happens again.

Eighty-four years ago the world had the opportunity to prevent the Armenian holocaust. But the world did not act. While there was much talk, there was no real help for the Armenians. If only we had known then that tyranny must be opposed early and steadfastly, perhaps this and future acts of genocide could have been prevented.

But the world does not learn easily. Even today, massacres take place around the world, with people murdered not for what they have done but for whom they are.

And we must wonder about the final goals of those who continue the blockade of Armenia and Nagorno Karabagh. We must make known to the world our opposition to such policies. We must fight to defend Section 907, cutting off American aid to those enforcing the embargo. And we must not allow the lure of cheap oil from the Caspian, an illusion, really, lead us away from the path of truth and justice.

To do justice to the memory of those who died we must see to it that justice is done to the living, to those who survived them. That means doing justice to Armenia, as well as to Armenians and other refugees.